

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

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C O N F I D E N T I A L USUN 3574

FROM US LOSDEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: INFORMAL PLENARY ON DISPUTE SETTLEMENT
SEPTEMBER 2

1. INFORMAL PLENARY SEPTEMBER 2 COMPLETED ARTICLES
4 - 18 AND BEGAN ARTICLE 19 OF ANNEX 1C, PART IV RSNT.

2. ARTS. 4-13 WERE COMPLETED WITHOUT COMMENT, SAVE
U.S. PROPOSAL ON ART. 4 REPORTED SEPTEL. THESE ARTICLES
ARE COPIED FROM ICJ STATUTE. BAHRAIN, WITH SUPPORT
FROM US AND OTHERS, SUGGESTED INCLUSION AS WELL OF THE
TEXT OF ARTS. 24 AND 25 OF THE ICJ STATUTE RELATING TO
EXCLUSION OF MEMBERS OF THE TRIBUNAL FOR SPECIAL REASONS
AND QUORUM. DISCUSSION OF ARTICLES 14 AND 16 LARGELY
CONSISTED OF RESERVATIONS OF POSITION BY MANY DELS
RESPECTING THE ONE TRIBUNAL/TWO TRIBUNAL PROBLEM AND THE
ANNEX II SPECIAL PROCEDURES.

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3. OCCASIONAL TACTICAL MANEUVERS IN THAT VEIN, SUCH AS USSR SUGGESTION TO DELETE FUNCTIONAL CHAMBERS IN ART. 14, PARA. 2, WERE INCLUDED IN DISCUSSION. USSR, BULGARIA, AND ALGERIA EXPRESSED DOUBT THAT THE COMPOSITION OF THE TRIBUNAL AS A WHOLE COULD BE REFLECTED IN A THREE MEMBER CHAMBER.

4. BULGARIA, WITH SUPPORT OF US AND FRANCE, SUGGESTED SEPARATING ART. 14, PARA. 1 FROM REST OF ARTICLE 14 SINCE IT DEALS WITH QUORUM, NOT CHAMBERS. TURKEY, WITH SUPPORT OF FRG AND UK, OBJECTED TO POWER OF THE LOS TRIBUNAL PRESIDENT IN ART. 14 PARA. 1 TO SELECT MEMBERS WHO WOULD SIT ON A CASE. SEVERAL SPEAKERS WISHED TO MAKE CLEAR THE TRIBUNAL SITS AS A WHOLE IN PRINCIPLE WITH CHAMBERS OR LESS THAN FULL MEMBERSHIP BEING THE EXCEPTION. TUNISIA REITERATED ITS RESERVATIONS ON THE DISCUSSION. POINTING TO POSSIBLE FUNCTIONAL CHAMBER ON SEABED EXPLORATION AND EXPLOITATION AS PREJUDICIAL TO COMMITTEE I'S FUTURE DECISION. US EMPHASIZED FLEXIBILITY OF CHAMBERS WITHIN LOS TRIBUNAL AND SUGGESTED NEED TO INCREASE ROLE OF THE PARTIES IN CHOICE OF CHAMBER MEMBERSHIP.

5. ON ART. 15, INDIA AND USSR WISHED TO FOLLOW ART. 29 OF THE ICJ STATUTE MORE CLOSELY. BAHRAIN AND QATAR STATED THAT ONLY FULL TRIBUNAL SHOULD ISSUE PROVISIONAL MEASURES. US SAID THAT, IN LIGHT OF ART. 26, PROVISIONAL MEASURES BY SUMMARY CHAMBER WERE ONLY PRELIMINARY AND THIS SHOULD BE CLARIFIED IN ART. 26, AND SUGGESTED THE TWO PROBLEMS DEALT WITH IN ART. 15 SHOULD BE HANDLED SEPARATELY. FRANCE AND NORWAY AGREED.

6. ART. 16 DISCUSSION ON THE ROLE OF EXPERTS INCLUDED A LITTLE REHASING OF THE DEBATE ON ART. 11 OF THE MAIN TEXT AND AMERASINGHE SUGGESTED IT MIGHT BE WISE TO USE ART. 11 TO GOVERN ALL PROCEDURES. ART. 17 AND 18 WERE SUBJECT OF DRAFTING SUGGESTIONS.

7. USSR OPENED WITH STRONG ATTACK ON INCLUSION OF INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS IN ART. CONFIDENTIAL

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19 (ON FINANCING THE TRIBUNAL) AND ANNOUNCED IT WILL OPPOSE REFERENCES TO SUCH ORGANIZATIONS OR NATURAL AND JURIDICAL PERSONS IN ART. 20, 21. BULGARIA TOOK TACK. INDIA ASKED WHAT THE REFERENCE TO OTHER STATES MEANT AND EXPRESSED RESERVATION ON INCLUSION OF ORGANIZATIONS IN THIS ARTICLE. AMERASINGHE EXPLAINED THAT OTHER STATES WOULD MEAN THOSE THAT HAD CONTRACTS WITH THE AUTHORITY BUT WERE NOT PARTIES TO THE CONVENTION.

ISRAEL WISHED TO HAVE CLARIFICATION OF THE PROVISIONS
RELATING TO A CONFERENCE OF CONTRACTING PARTIES. FRANCE
STATED THAT IT DID NOT LIKE THE LOS TRIBUNAL AND WOULD
NOT BE FORCED TO GO TO THE LOS TRIBUNAL. WHILE OTHERS
COULD USE IT IF THEY SO WISHED, THEY COULD NOT ASK
FRANCE TO PAY FOR IT. THUS, ART. 19 SHOULD BE LIMITED TO
STATES THAT HAVE CHOSEN LOS TRIBUNAL UNDER ART. 9.
UKRAINE TOOK SIMILAR VIEW. GHANA SUGGESTED MOVING ART.
21, PARA. 2 TO ART. 19 AND POINTED TO LIMITATION OF
ACCESS TO STATES IN ART. 13 OF MAIN TEXT. KENYA SAID
WE NEEDED TO WAIT FOR COMMITTEE I TO MAKE ITS DECISION
AND MADE A PLEA TO THOSE WHO DO NOT SUPPORT THE LOS
TRIBUNAL TO CONTINUE THROUGH THE TEXT. SWITZERLAND
AND UK FELT THAT ARTS. 20 - 22 DEPENDED ON COMMITTEE I.
INDIA SUGGESTED PROBLEM OF OTHER STATES SHOULD BE DEALT
WITH AS IN ART. 35, PARA. 3 OF THE ICJ STATUTE.
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